

## CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Hannah Sampson	Team: Squad #8	CCRB Case #: 201803733	<input type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Saturday, 05/12/2018 10:20 PM	Location of Incident: Arthur Kill Road	Precinct: 123	18 Mo. SOL 11/12/2019	EO SOL 11/12/2019	
Date/Time CV Reported Sun, 05/13/2018 1:51 AM	CV Reported At: CCRB	How CV Reported: On-line website	Date/Time Received at CCRB Sun, 05/13/2018 1:51 AM		

Complainant/Victim	Type	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. POM Gabriel Cuadros	20548	958453	123 PCT
2. SGT Aleksandr Pasyнков	00506	947328	123 PCT

Officer(s)	Allegation	Investigator Recommendation
A.SGT Aleksandr Pasyнков	Discourtesy: Sergeant Aleksandr Pasyнков spoke discourteously to § 87(2)(b) and individuals.	
B.POM Gabriel Cuadros	Abuse: Police Officer Gabriel Cuadros questioned § 87(2)(b) and individuals.	
C.POM Gabriel Cuadros	Abuse: Police Officer Gabriel Cuadros frisked individuals.	
D.POM Gabriel Cuadros	Abuse: Police Officer Gabriel Cuadros searched individuals.	
E.POM Gabriel Cuadros	Abuse: Police Officer Gabriel Cuadros frisked § 87(2)(b)	
F.POM Gabriel Cuadros	Abuse: Police Officer Gabriel Cuadros searched § 87(2)(b)	
G.SGT Aleksandr Pasyнков	Abuse: Sergeant Aleksandr Pasyнков searched an individual.	
H.SGT Aleksandr Pasyнков	Abuse: Sergeant Aleksandr Pasyнков threatened to arrest § 87(2)(b)	
I.POM Gabriel Cuadros	Abuse: Police Officer Gabriel Cuadros searched the vehicle in which § 87(2)(b) and individuals were occupants.	
J.POM Gabriel Cuadros	Discourtesy: Police Officer Gabriel Cuadros spoke discourteously to § 87(2)(b) and individuals.	
K.SGT Aleksandr Pasyнков	Abuse: Sergeant Aleksandr Pasyнков threatened § 87(2)(b) and individuals with the use of force.	
§ 87(4-b), § 87(2)(g)		

### Case Summary

On May 13, 2018, § 87(2)(b) filed this complaint with the CCRB via the online website on behalf of her son, § 87(2)(b) [BR 01]. § 87(2)(b) did not witness the incident.

On May 12, 2018, at 10:20 p.m., Sgt. Aleksandr Pasynkov and PO Gabriel Cuadros, both of the 123<sup>rd</sup> Precinct, stopped § 87(2)(b)'s vehicle on Arthur Kill Road in Staten Island. The investigation determined that § 87(2)(b) and other unidentified individuals were also in the vehicle at the time. Sgt. Pasynkov approached the vehicle and commented that it smelled like a “fucking hot box” (**Allegation A: Discourtesy**, § 87(2)(g)). As the occupants exited the vehicle, PO Cuadros asked why the vehicle smelled like marijuana (**Allegation B: Abuse of Authority**, § 87(2)(g)). PO Cuadros frisked and searched multiple occupants and Sgt. Pasynkov searched one occupant (**Allegations C, D, E, F, and G: Abuse of Authority**, § 87(2)(g)). A knife was recovered from § 87(2)(b) and Sgt. Pasynkov stated he would take his handcuffs out and bring him back to the precinct for criminal possession of a weapon (**Allegation H: Abuse of Authority**, § 87(2)(g)). PO Cuadros then searched the vehicle (**Allegation I: Abuse of Authority**, § 87(2)(g)). As PO Cuadros searched the vehicle, an occupant fled the location. PO Cuadros stated to the remaining occupants, “What the fuck did he just do?” (**Allegation J: Discourtesy**, § 87(2)(g)). Sgt. Pasynkov then stated that he would chase and “tackle” the next person that ran (**Allegation K: Abuse of Authority**, § 87(2)(g)). Sgt. Pasynkov used the word “bullshit” and the phrase “bag of shit” during the incident and told the occupants that they would not be able to “do shit” with a criminal record (**Allegation A continued**). Sgt. Pasynkov then told § 87(2)(b) that if PO Cuadros ran his name and nothing came back, he would place him in handcuffs for “false impersonation” (**Allegation H continued**). § 87(2)(b) was issued three summonses from this incident: § 87(2)(b)

§ 87(2)(b) [BR 04]. § 87(2)(b) was also issued a summons for § 87(2)(b)  
§ 87(2)(b) [BR 05]. § 87(4-b), § 87(2)(g)

Body Worn Camera (BWC) footage exists for this incident. However, due to reasons outlined below, the investigation could not obtain a copy of the footage.

### Findings and Recommendations

**Allegation A – Discourtesy: Sergeant Aleksandr Pasynkov spoke discourteously to § 87(2)(b) and individuals.**

**Allegation J – Discourtesy: Police Officer Gabriel Cuadros spoke discourteously to § 87(2)(b) and individuals.**

It is undisputed that Sgt. Pasynkov and PO Cuadros used profanity during this incident.

On May 24, 2018, § 87(2)(b) provided a phone statement to the CCRB [BR 06]. However, he did not cooperate further with the investigation [BRs 07 through 14]. He did not allege that any officer used profanity during this encounter. Contact attempts were made to § 87(2)(b) [BRs 15 through 29] and § 87(2)(b) [BRs 30 through 42] but neither victim could be reached for a statement. Although the investigation determined that there were at least two additional occupants that were victims to FADO allegations, the investigation could not determine their identities. In light of this information, no sworn statements could be obtained from any of the victims.

As mentioned above, BWC footage from PO Cuadros exists from this encounter. Because the incident involved minors that could not be reached, the undersigned and Investigative

Manager Ethan De Angelo reviewed the un-redacted BWC footage at 1 Police Plaza on July 30, 2018. After determining that the footage captured clear misconduct, the investigation summarized the BWC footage [BR 43] and requested a redacted copy from the NYPD. On August 30, 2018, the investigation was informed that the NYPD was no longer providing the CCRB with redacted copies of BWC footage [BR 44]. Absent signed Un-Sealing Orders from the minors, the investigation could not obtain any copies of the BWC footage.

The BWC footage showed that, upon reaching the passenger side of the vehicle, Sgt. Pasynkov commented that the vehicle was a “fucking hot box.” It later shows PO Cuadros stating, “Why the fuck did he just do that” to occupants of the vehicle after § 87(2)(b) fled the location. It also captures Sgt. Pasynkov using the word “bullshit” and the phrase “bag of shit” while speaking to the civilians and captures him stating that they would not be able to “do shit” in the future if they have criminal records.

PO Cuadros was interviewed at the CCRB on September 27, 2018 [BR 45]. He stated that he could not hear anything Sgt. Pasynkov stated as he approached the passenger side of the vehicle and denied hearing him refer to the vehicle as a “fucking hot box.” PO Cuadros acknowledged that he was surprised when one of the occupants fled the location, but denied that he said, “What the fuck did he just do” to the remaining occupants. PO Cuadros denied that he heard Sgt. Pasynkov use the word “bullshit” or “bag of shit” in any context and said he did not overhear any conversation between Sgt. Pasynkov and the occupants about how a criminal record could affect their futures. As such, he denied that he heard Sgt. Pasynkov tell any of the occupants that they would not be able to “do shit” with a criminal record. PO Cuadros added that he was in the midst of searching the vehicle while Sgt. Pasynkov remained outside with the occupants.

Sgt. Pasynkov was interviewed at the CCRB on October 9, 2018 [BR 46]. He acknowledged speaking to the civilians when he approached the vehicle but did not recall exactly what was discussed. He denied that he referred to the vehicle as a “fucking hot box” and did not recall using the word “bullshit” or the phrase “bag of shit” on scene. He stated that he did speak to the occupants about how this kind of incident could affect their futures but did not recall stating that they would not be able to “do shit” with a criminal record. Sgt. Pasynkov did not hear PO Cuadros state, “What the fuck did he just do?”

Sgt. Mallick, also of the 123<sup>rd</sup> Precinct, was interviewed on September 27, 2018 [BR 47]. The investigation determined that he was not involved in this incident.

Patrol Guide Procedure 203-09 states that officers are to be “courteous and respectful” when speaking to the public [BR 48].

§ 87(2)(g)

**Allegation B – Abuse of Authority: Police Officer Gabriel Cuadros questioned § 87(2)(b) and individuals.**

**Allegation C – Abuse of Authority: Police Officer Gabriel Cuadros frisked individuals.**

**Allegation D – Abuse of Authority: Police Officer Gabriel Cuadros searched individuals.**

**Allegation E – Abuse of Authority: Police Officer Gabriel Cuadros frisked § 87(2)(b)**

**Allegation F – Abuse of Authority: Police Officer Gabriel Cuadros searched § 87(2)(b)**

**Allegation G – Abuse of Authority: Sergeant Aleksandr Pasynkov searched § 87(2)(b)**

**Allegation H – Abuse of Authority: Sergeant Aleksandr Pasynkov threatened to arrest § 87(2)(b)**

**Allegation I – Abuse of Authority: Police Officer Gabriel Cuadros searched the vehicle in which § 87(2)(b) and individuals were occupants.**

**Allegation K – Abuse of Authority: Sergeant Aleksandr Pasynkov threatened § 87(2)(b) and individuals with the use of force.**

It is undisputed that § 87(2)(b)'s vehicle smelled of marijuana at the time of this stop and that PO Cuadros questioned the occupants about the odor of marijuana. It is further undisputed that PO Cuadros frisked and searched occupants of the vehicle, including § 87(2)(b) and then searched the vehicle. It is also undisputed that Sgt. Pasynkov searched one occupant, that one individual fled the location, and that Sgt. Pasynkov stated that he would chase and “tackle” the next person that ran. It is also undisputed that § 87(2)(b) was in possession of a knife and that Sgt. Pasynkov subsequently threatened him with arrest.

In his phone statement, § 87(2)(b) said that one of the occupants had a bag of marijuana that caused an odor of marijuana to emanate from the vehicle. He denied that any of the occupants were smoking marijuana, but said that they were using vapor pens. He alleged that after being stopped, an officer, identified by the investigation as PO Cuadros, frisked and searched him and one other unknown occupant on the driver's side of the vehicle. § 87(2)(b) believed that everyone in the vehicle was frisked and searched but said he could not see what happened on the passenger side of the vehicle clearly. He further stated that PO Cuadros searched the vehicle while Sgt. Pasynkov “lectured” the occupants on the side of the vehicle. § 87(2)(b) said that one of the occupants, identified by the investigation as § 87(2)(b) had a “flip/survival knife” in his backpack and that one of the occupants fled the location. § 87(2)(b) did not see the knife opened. § 87(2)(b) did not allege that any officer threatened anyone with arrest or the use of force. As discussed above, no statements could be obtained from the remaining occupants.

The BWC footage from this incident shows that PO Cuadros frisked and searched one unidentified male before frisking and searching § 87(2)(b). The footage also shows that Sgt. Pasynkov searched an unidentified male. Sgt. Pasynkov is then heard asking § 87(2)(b) why he has a knife in his backpack. Sgt. Pasynkov then tells § 87(2)(b) that he is going to take his handcuffs out and bring § 87(2)(b) back to the precinct for criminal possession of a weapon. As PO Cuadros searched the vehicle, one of the unknown male occupants fled the scene. Shortly thereafter, Sgt. Pasynkov stated to the group of remaining civilians that he would chase and tackle the next person that runs. After searching the vehicle, PO Cuadros asked one of the occupants for his name, address, and date of birth. § 87(2)(b) identified as § 87(2)(b) provides his information to PO Cuadros. Sgt. Pasynkov then told § 87(2)(b) that he lied to him a few times already about the knife and that if PO Cuadros runs

his name and nothing comes back, Sgt. Pasynkov was going to place § 87(2)(b) in handcuffs for “false impersonation.”

PO Cuadros and Sgt. Pasynkov were both consistent that as they approached the vehicle, they observed a cloud of smoke and smelled an odor of marijuana. PO Cuadros stated that as the occupants exited the vehicle, he asked them why the vehicle smelled like marijuana. Both PO Cuadros and Sgt. Pasynkov were consistent that PO Cuadros frisked and searched occupants of the vehicle. PO Cuadros believed that he frisked and searched all the male individuals. Neither PO Cuadros nor Sgt. Pasynkov recalled if Sgt. Pasynkov frisked or searched any of the occupants. Both were consistent that the female was not frisked or searched, and that PO Cuadros searched the vehicle alone. PO Cuadros stated that he performed the frisks, searches, and vehicle search because of the odor of marijuana and because various occupants acknowledged possessing marijuana. Sgt. Pasynkov and PO Cuadros were both consistent that § 87(2)(b) ran from the location; however, Sgt. Pasynkov did not recall threatening to chase and tackle the next person that ran and PO Cuadros denied hearing him make any such statement. Sgt. Pasynkov stated that § 87(2)(b) possessed a gravity knife and said that he had a conversation with § 87(2)(b) about why he needed the knife. He did not recall if he said that he would take his handcuffs out and bring § 87(2)(b) back to the precinct for criminal possession of a weapon but stated it “was possible.” Sgt. Pasynkov further stated that § 87(2)(b) could have been arrested for possessing the gravity knife. PO Cuadros was consistent that a knife was recovered from one of the occupants and that Sgt. Pasynkov spoke to him about the knife. PO Cuadros added that all he knew about the knife was that the owner, § 87(2)(b) was warned and admonished. He did not hear Sgt. Pasynkov threaten to handcuff any individual. Sgt. Pasynkov did not recall “false impersonation” coming up in any context on scene.

As mentioned above, summonses were issued to § 87(2)(b) and § 87(2)(b) for § 87(2)(b). Vegetative marijuana and THC oil were vouchered under invoice # § 87(2)(b) [BR 49]. The vegetative marijuana field tested positive. The knife was not vouchered.

According to People v. DeBour 40 N.Y.2d 210 (1976), officers may ask pointed questions when they have a founded suspicion that criminal activity is afoot [BR 50]. Moreover, officers may search and arrest when they have probable cause to believe that a crime has been committed and the individual to be arrested committed the crime.

People v. Chestnut 43 A.D.2d 260 (1974) [BR 51], People v. Smith 66 A.D.3d 514 (2009) [BR 52], and People v. Badger 52 A.D.3d 231 (2008) [BR 53] have all affirmed that an officer has probable cause to search a vehicle and its occupants after detecting an odor of marijuana.

According to New York State Penal Law § 265.01(1), a person is guilty of criminal possession of a weapon in the fourth degree when he is in possession of a gravity knife [BR 54].

Patrol Guide Procedure 221-01 states that officers may use force when it is reasonable to prevent § 87(2)(b)s escape from custody [BR 55].

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(4-b), § 87(2)(g)

#### **Civilian and Officer CCRB Histories**

- This is the first CCRB complaint to which § 87(2)(b) and § 87(2)(b) have been a party [BRs 58, 59, 60, and 61].
- Sgt. Pasyukov has been a member of the service for 10 years and has been a subject in six previous CCRB complaints and 15 allegations, none of which were substantiated. § 87(2)(g)
- PO Cuadros has been a member of the service for three years and has been a subject in three previous CCRB complaints and eight allegations, none of which were substantiated. § 87(2)(g)

#### **Mediation, Civil and Criminal Histories**

- § 87(2)(b) requested time to consider Mediation vs. Investigation and then did not cooperate with further with any subsequent contact attempts. Mediation was not offered to § 87(2)(b). Given that none of the remaining victims could be reached or identified, the case was not suitable for Mediation.
- An online Notice of Claim request was submitted to the Office of the Comptroller on October 22, 2018, and will be added to the case file upon receipt.

- According to the Office of Court Administration, § 87(2)(b) and § 87(2)(b) have no histories of criminal convictions in New York City [BRs 62, 63, 64, and 65].

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Squad No.:     \_\_\_8\_\_\_

Investigator:     \_\_\_\_\_     \_\_\_\_\_     \_\_\_\_\_  
  Signature                      Print Title & Name                      Date

Squad Leader:     \_\_\_\_\_     \_\_\_\_\_     \_\_\_\_\_  
  Signature                      Print Title & Name                      Date

Reviewer:     \_\_\_\_\_     \_\_\_\_\_     \_\_\_\_\_  
  Signature                      Print Title & Name                      Date